



Hon John Mickel MP
Member for Logan

RECEIVED
05 MAR 2007
BY: MIG

Submission No. 65
Date Received



Queensland
Government

Ref: MN=82697

Minister for State Development,
Employment and Industrial Relations

26 FEB 2007

Mr Don Randall MP
Chair
Joint Standing Committee on Migration
The House of Representatives
PO Box 6021
Parliament House
CANBERRA ACT 2600

Dear Mr Randall

The Queensland Government has repeatedly called for urgent reforms to Australia's temporary skilled migration program and, more specifically, the visa subclass 457 (s.457). We therefore welcome this inquiry, albeit limited to certain aspects of the program, and note the concurrent and comprehensive examination of the program by the Ministerial Council on Immigration and Multicultural Affairs (MCIMA) on behalf of the Council of Australian Governments (COAG).

The Queensland Government is a proactive participant of the Ministerial Council on Immigration and Multicultural Affairs Working Party on Skilled Migration, which was formed in July 2006 to identify measures to ensure the effectiveness, fairness and integrity of the program. In this context we have provided comprehensive input regarding measures we believe are necessary to achieve that goal.

In light of input to date, and the confidential nature of the Council of Australian Governments related proceedings, the Queensland Government believes that it would be inappropriate to comprehensively address the full breadth of issues within this submission.

This submission, by way of letter, states the broad position of the Queensland Government in relation to the temporary skilled migration program and highlights key measures that we believe are necessary to address current shortcomings.

Level 12 Executive Building
100 George Street Brisbane
PO Box 15168 City East
Queensland 4002 Australia
Telephone +61 7 3224 4610
Facsimile +61 7 3224 4781
Email SDEIR@ministerial.qld.gov.au
ABN 65 959 415 158

The position of the Queensland Government

The Queensland Government values the Federal Government's involvement of the States in immigration matters that are likely to have major economic and social impact.

It is the Queensland Government's view that, as articulated in its Position Statement on Immigration, it is desirable for immigration policies to be considered in the context of policies in other areas such as health, education, training, employment, housing and consumer education to ensure that public resources are administered with maximum efficiency and equity. The Queensland Government supports a fair, equitable and transparent skilled migration system that is both responsive to the labour and skills needs of Australian industry and protective of the human and workplace rights of migrant and Australian workers.

However, the s.457 program in its current form falls well short of that objective as demonstrated by the need for the Office of Workplace Services, for example, to pursue and succeed in recovering \$650,000 in unpaid wages from the employers of 38 s.457 holders. This situation calls for additional monitoring by the Federal Department of Immigration and Citizenship (DIAC) that is unlikely to be sustainable. This unsatisfactory state of affairs is likely to be exacerbated by the steadily increasing number of s.457 recipients.

The support of this Government for s.457 is contingent upon the clear understanding that it does not undermine Australian employment opportunities, wages or working conditions. That support is currently severely tested by the well-publicised practices of unscrupulous employers and the current direction of the Federal Government to dilute workers' rights.

The Queensland Government acknowledges the vital support role that an effective skilled migration program can play within the Australian economy. Whilst our preference is for the employment of Australian skilled workers wherever possible, it is recognised that the s.457 can be a valuable tool for business to fill urgent and genuine vacancies for skilled workers, particularly in selected highly skilled occupations that are recognised as being in critical shortage.

Like other State Governments, we utilise the skilled migration program to support the delivery of vital services such as healthcare in regional Queensland. This is not, however, evidence of the program's success, as Queensland's reliance on the program is due to the chronic under-funding by the Commonwealth Government of medical and nursing training and university places. The Queensland Government's latest workforce modelling predicts that there will still be a gap between supply and requirements of medical practitioners varying between 221 and 777 from 2007 to 2016 based on current models of care. This gap does not take into account the replacement of International Medical graduates working in Queensland.

It is crucial that the Federal Government commit to funding significant additional university place to meet this skill gap.

The Queensland Government does not consider using overseas trained doctors as the only long term solution until the Australian Government properly funds the education and training of the workforce required to deliver proper healthcare. The Queensland Government supports priority investment in training and skills development, as evidenced by the \$1 billion Queensland Skills Plan announced in March 2006.

The Queensland Government is committed to providing high quality healthcare to the communities of Queensland. In acknowledgement of the ongoing need of Queensland to engage the services of overseas trained doctors for the foreseeable future, Queensland has invested in the recruitment, assessment, placement, training and support (RAPTS) program for overseas trained doctors. The Queensland Government is committed to assisting those overseas trained doctors who wish to make Queensland their home to achieve unconditional medical registration and permanent residency.

The Queensland Government supports a multicultural environment where migrants and their families are welcomed, supported and treated with respect, both within and outside of the workplace. We also support a migration system that is promoted fairly and objectively.

Review of regional certifying bodies

The Queensland Government also calls on the Federal Government to establish a review of regional certifying bodies. These bodies play an important role in ensuring the integrity of the employer sponsored migration program, particularly in relation to salary concessions and certification for positions in lower skilled occupations.

Of particular concern are the charging regimes employed by some regional certifying bodies, some charging as much as \$550 per application. When the fee for service goes beyond cost recovery and becomes a potential source of revenue, the transparency of the decision making process can be brought into question.

As there is no obligation for employers to seek certification from their closest regional certifying body under the current arrangements, certification may not be carried out by the most appropriate organisation, especially when it is noted that there is a disparity between fees charged.

Our concern is not totally unfounded. There is evidence to suggest that some regional certifying bodies have approved salary concessions well below market rates of pay and barely above the award rates. That the regulations required an amendment in order to limit the concessions permitted to 10 percent below the minimum salary level is proof that the scheme has some failings.

Another potential conflict of interest involves certifying bodies that are also Chambers of Commerce and may be required to deal with matters involving their own members. Any conflicts of interest must not be allowed to influence decision-making and strict protocols need to be developed to ensure regional certifying bodies are accountable for their decisions.

Proposed measures

In addition to our contributions through the Council of Australian Governments, the Queensland Government submits that the following measures are required in order to address the program's shortcomings with emphasis on protecting the position of local employees, particularly those in lower skilled occupations (including trade skills):

Improved labour market testing

Employers seeking to sponsor migrant workers should be required to clearly demonstrate that Australian workers are not available to perform the work at current market rates.

Labour Market Factors

The deregulation of the labour market that is allowable under Work Choices makes it problematic in determining whether or not the employment conditions for proposed s.457 workers are fair and equitable.

There is a danger that exploitative wage conditions could have an adverse impact on the nation's reputation, and cause resentment amongst nations supplying workers on these visas.

Requirement to pay Australian market rates

Employers should be required to pay s.457 holders Australian market rates, in Australia and in Australian currency, and not only the minimum allowable wages.

There is also a need for a minimum wage/salary based on a 38-hour week and a mechanism for ensuring that additional hours attract additional pay.

Positions made redundant

Employers should be prohibited from using s.457 holders to replace workers who have been made redundant.

Industrial action

Employers should be prohibited from using s.457 holders to replace workers who are engaged in lawful industrial action or are locked out by the employer.

Labour hire companies

Labour hire companies should not be eligible to sponsor employers of s.457 holders unless doing so through a labour agreement that confirms the labour hire company's obligations and protects s.457 holders from cost shifting.

Training and skills development

Employers seeking to use s.457 workers must demonstrate a genuine commitment to training Australians to meet the skills shortage, for example, by employing apprentices and trainees.

Requirement to pay migration fees

The employer must be required to pay for the migration costs of s.457 holders and be prohibited from passing these onto the workers.

Pay deductions

The employer of a s.457 holder must be prohibited from deducting costs, such as those associated with accommodation, that are above the market rate. The written consent of the visa holder must be obtained before any such deductions are made.

Detailed and transparent data and information

DIAC should be required to provide to State Governments the details of s.457 holders' employers and general numbers of s.457 holders located within their jurisdiction, to enable the States to accurately assess impact, monitor workplace health and safety, and plan for adequate services. Additionally, DIAC should be required to collect and publicly disclose summary data showing actual salaries paid to s.457 holders to allay any fears regarding the manipulation of the program.

As previously mentioned, this submission states the broad position of the Queensland Government in relation to the temporary skilled migration program.

Many of these issues have been considered by the MCIMA Working Party into s.457. It would assist the work of the Joint Standing Committee to be aware of those recommendations. Further, the Queensland Government strongly considers that stakeholders should be consulted on any proposed changes to the s.457 program.

The Queensland Government's final position on the recommendations for COAG and the s.457, the subject of this inquiry, will be determined once consultation has been undertaken with stakeholders by the Commonwealth Government.

Yours sincerely



JOHN MICKEL MP
Minister for State Development,
Employment and Industrial Relations